

RICHARD D. ESPER
801 North El Paso Street, 2nd Floor
El Paso, Texas 79902
State Bar No. 06667500
Telephone: 915-544-3132
Facsimile: 915-544-4647

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

EUSEVIO MALDONADO HUITRON

Defendant.

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NO. A:12-CR-00210-(11)-SS

**DEFENDANT HUITRON'S NOTICE OF
CONFLICTING TRIAL SETTING AND REQUEST
FOR TRIAL CONTINUANCE TO APRIL, 2013**

TO THE HONORABLE SAM SPARKS, UNITED STATES DISTRICT JUDGE
FOR THE WESTERN DISTRICT OF TEXAS:

COMES NOW the Defendant, EUSEVIO MALDONADO HUITRON, who
by and through his undersigned attorney, RICHARD D. ESPER, files the above
captioned Motion in the above entitled and numbered case and as grounds would
respectfully show as follows:

I.

On August 28, 2012, this Honorable Court entered an Order continuing the
trial date in this case from the previous trial date of October 22, 2012, to March 3,
2013.

II.

That the Defendant Huitron, along with all but one co-defendant, joined in a Motion filed on August 31, 2012 my co-defendant Zulema Trevino, for Four (4) Week Continuance of this March 3, 2013 trial setting.¹

III.

That counsel for Huitron files a separate Motion For Continuance in order to illuminate the conflict he possesses by the March 3, 2013, trial setting and the need for a trial setting in April of 2013.

IV.

On January 13, 2012, the Honorable Frank Montalvo set a trial date of February 25, 2013 in a case styled *United States v. Cobos, et al.*, Cause Number EP-11-CR-3019-FM. The government prosecutors in charge of this case estimate that it will take the government seven (7) to ten (10) working days to complete their case-in chief. It is anticipated that it will take the defense three (3) to four (4) working days to present its defense. Hence, this trial will unequivocally continue well into the week of March 3, 2013, making undersigned counsel's appearance in the instant case impossible. Moreover, the government in the Cobos case has tendered a palatable plea offer to the Defendant which was rejected by the Defendant. Although undersigned counsel is mindful that a great majority of cases result in a resolution without a trial, in the *Cobos* case, resolution of the case without a trial is extremely remote.

1. The government likewise consented to this continuance request.

V.

That since the *Cobos* case will take at least two (2) weeks to complete and that undersigned counsel will need a few weeks to finalize trial preparation in the case at bar, a trial date in early April is sought.²

VI.

That the Defendant waives any time afforded to him under the Speedy Trial Act by the granting of this continuance. 18 U.S.C. § 3161 *et seq.*

WHEREFORE, PREMISES CONSIDERED, the Defendant Huitron respectfully requests that this Motion be granted for the reasons stated herein and for such other and further relief to which he may be justly entitled.

Respectfully submitted,

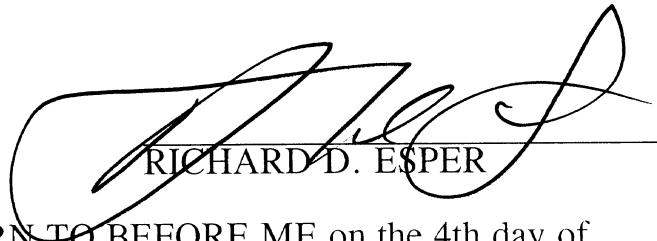
/s/ Richard D. Esper
RICHARD D. ESPER
Attorney for Defendant

2. December 2012, is also not a conflict-free time period since counsel for Defendant will be commencing, on December 3, 2012, a “conspiracy to kill in a foreign country” trial in the United States District Court for the Western District of Texas in a case styled *United States v. Delgado-Chavez, et al.*, Cause Number EP-11-CR-2368(2)-DB. That setting was entered by Senior United States District Judge David Briones on August 14, 2012, and will take at least one (1) week to complete.

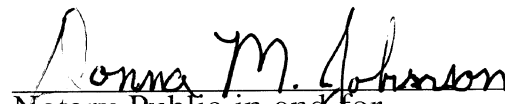
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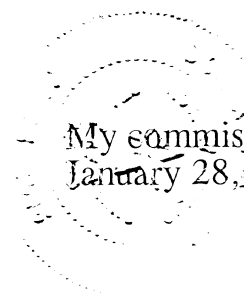
BEFORE ME, the undersigned authority, on this day personally appeared RICHARD D. ESPER, who after being duly sworn stated:

"I am defense counsel in the above-entitled and numbered cause. I have read the foregoing Defendant Huitron's Notice of Conflicting Trial Setting and Request for Trial Continuance to April, 2013 and swear that all of the allegations of fact contained therein are true and correct."


RICHARD D. ESPER

SUBSCRIBED AND SWORN TO BEFORE ME on the 4th day of September, 2012, to certify which witness my hand and seal.


Notary Public in and for
the State of Texas


My commission expires:
January 28, 2016

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of September, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Office of the United States Attorney
816 Congress Avenue
Suite 1000
Austin, Texas 78701

/s/ Richard D. Esper

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

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O R D E R

On this day, the Court considered Defendant Huitron's Notice of Conflicting Trial Setting and Request for Trial Continuance to April, 2013, filed in the above-captioned cause. The motion was made because Defendant Huitron has a conflicting trial setting with the March 3, 2013, trial setting in this case. After due consideration, the Court is of the opinion that the Motion should be granted.

In order to allow the Defendant to receive the effective assistance of counsel and to allow defense counsel the necessary reasonable amount of time to effectively prepare, the Court finds that the interests of justice outweigh the Defendants and the public's interests in a speedy trial. *See* 18 U.S.C.A. § 3161(h)(F)(B)(iv)(West 2000 & Supp. 2010). As such, the Court concludes that the time from August 28, 2012 through April ____, 2013, is excludable within the meaning of the Speedy Trial Act, 18 U.S.C. §§ 3161, et seq. *See* 18 U.S.C.A § 3161(h).

Accordingly, it is hereby ORDERED that Defendant's Motion for Continuance is GRANTED. This cause is rescheduled for Docket Call and Trial on _____, 2013, at _____ a.m.

SIGNED this _____ day of September, 2012.

SAM SPARKS
United States District Judge